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UNCLAS GUATEMALA 000824

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SUBJECT: CICIACS GOES TO COURT

1. (SBU) Summary: The GOG-UN agreement to create a Commission to Investigate Clandestine Groups (CICIACS) is slowly moving toward implementation, if fitfully. The CICIACS agreement underwent Congressional review in February and March and will shortly be sent to the Constitutional Court for its legal opinion. President Berger publicly expressed his Administration's commitment to implement the CICIACS in a national address on February 25. The Court will likely be swayed by President Berger's public support and a favorable ruling would make Congressional ratification more likely. End Summary.

Presidential Position Clear

2. (SBU) President Berger on February 25 declared his government's strong support for CICIACS in a high-profile ceremony "re-launching" the Peace Accords. Berger told the Ambassador during a March 24 meeting with USAID A/A Franco that he remains committed to CICIACS implementation. Vice President Stein has the lead within the Executive on CICIACS, supported by Frank LaRue, President of the Presidential Commission on Human Rights (COPREDH). Stein plans to reaffirm the GOG's commitment during a visit to UN headquarters in New York later this month. At the same time, he will explore UN willingness to adjust the agreement, should the Constitutional Court find any of its aspects unconstitutional.

Court Ruling Could Resolve Congressional Qualms

3. (SBU) A 60-day deadline for Congressional consideration of CICIACS began February 6, when the GOG-UN agreement was sent to the Congressional Government and Human Rights Commissions for review. In a March 29 meeting with HROff, Nineth Montenegro Human Rights Commission President said the Human Rights Commission would recommend that Congress request an opinion from the Constitutional Court on the legality of the agreement. The Government Commission will reportedly advise against ratification. Public debate over CICIACS has centered on constitutional and sovereignty concerns. FRG, UNE, and GANA coalition Congressional leaders we have consulted all agree a positive ruling by the Court would counter those doubts and make a favorable ruling from Congress likely.

Donor Reaction Positive

4. (SBU) MINUGUA Human Rights Chief Patrick Gavigan now estimates the CICIACS budget at \$8-10 million/year for three years. The UN recently held a donor meeting in New York and anticipates positive reception from donors like the World Bank/IDB if the UN-GOG CICIACS agreement is ratified by Congress. There is donor consensus that the GOG should contribute a portion of the CICIACS budget in order to demonstrate its commitment to the process. In a February 26 meeting with the Ambassador, Helen Mack said the "Coalition for the Establishment of CICIACS," of which she is a member, would suggest the Public Ministry, Interior Ministry, and National Civil Police contribute to CICIACS from their respective budgets. Frank LaRue has told us he believes the GOG would contribute funds as a symbolic gesture of GOG dedication to project, but would not be able to offer significant amounts.

Comment

5. (SBU) The highly politicized behavior of the Constitutional Court may actually work in favor of the implementation of CICIACS. Our analysis of the constitutional issues involved in CICIACS is that there is enough gray area to permit Court rulings in favor (or against) on the merits. Some prominent CICIACS supporters, including Helen Mack and other human rights activists, have long believed a Court ruling will be necessary. Although this is the same court that ruled in favor of Gen. (ret.) Rios Montt's quixotic presidential candidacy last year, the Court has more recently ruled favorably on several Executive initiatives (including the replacement of the former Attorney General and the lifting of former President Portillo's parliamentary immunity) and seems highly attuned to changes in the political environment that accompanied the change in

government. Berger has made his support for CICIACS clear and we are hopeful the Court will follow his lead. A favorable Court ruling would make Congressional passage more likely.
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